

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JOSE NINO, JR., #1992916,

Plaintiff,

v.

DIRECTOR, TDCJ-CID,

Defendant.

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Case No. 6:19-CV-36-JDK-JDL

ORDER OF DISMISSAL

The above-entitled and numbered civil action was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation concluding that the lawsuit should be dismissed without prejudice for failure to comply with a Court Order and failure to prosecute. Docket No. 4 at 1–2.


This Court reviews the findings and conclusions of the Magistrate Judge *de novo* only if a party files objections within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a *de novo* review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not file objections. The Court will therefore review the Magistrate Judge’s findings for clear error or abuse of discretion and his conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”).

Here, the Magistrate Judge recommended that the Court dismiss Plaintiff's case without prejudice. Docket No. 4 at 1–2. Plaintiff was ordered to file an amended complaint and to pay the statutory \$400.00 filing fee or seek leave to proceed *in forma pauperis*. Docket No. 4. Despite receiving a copy of the Court's Order on February 21, 2019, Plaintiff failed to comply with the Order or respond in any way. Docket No. 4 at 1. The Court therefore finds that dismissal without prejudice is an appropriate sanction for Plaintiff's failure to comply with the Court's Order. *See, e.g., Lawson v. Davis*, No. 7:16-cv-00138-O-BP, 2017 WL 394521, at *1 (N.D. Tex. Jan. 3, 2017).

The Report and Recommendation of the Magistrate Judge, which contains his findings, conclusions, and recommendation for the disposition of the lawsuit has been presented for consideration. The Report and Recommendation (Docket No. 4), filed on May 2, 2019, recommends that the lawsuit be dismissed without prejudice. Plaintiff did not file objections. The Court therefore **ADOPTS** the findings and conclusions of the Magistrate Judge as those of the Court. It is accordingly

ORDERED that the lawsuit is **DISMISSED WITHOUT PREJUDICE**. It is further **ORDERED** that any motion not previously ruled on is **DENIED**.

So **ORDERED** and **SIGNED** this **12th** day of **July, 2019**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE